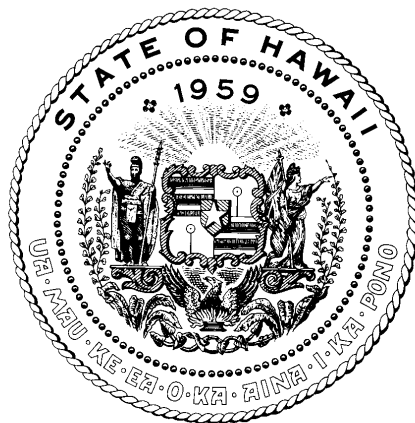


Report to the Twenty-First Legislature  
Regular Session of 2002

**Final Report on  
Convening a Working Group to Study**  
Conditions at Punalu'u and Kamehame Beaches



Prepared by:  
Department of Land and Natural Resources  
State of Hawaii

In response to:  
Senate Concurrent Resolution No. 89,  
**Senate Draft 2 Regular Session of 2000**

December 2001

**FINAL REPORT ON  
SENATE CONCURRENT RESOLUTION NO. 89, SENATE DRAFT 2,  
REGULAR SESSION OF 2000**

Requesting the Department of Land and Natural Resources to Convene A Working Group of Community Members and Government Agencies to Study Conditions at Punalu'u Beach and Kamehame Beach and Recommend Appropriate Actions to Preserve and Protect the Area's Endangered Species and Natural Resources

**PURPOSE OF THE REPORT**

This report is submitted in compliance with Senate Concurrent Resolution (SCR) No. 89, Senate Draft (SD) 2, adopted by the Twentieth Legislature of the State of Hawaii, Regular Session 2000. The SCR requests the Department of Land and Natural Resources (DLNR) to convene a working group to study the threatened Green Sea Turtles and endangered Hawksbill Turtles at Punalu'u and Kamehame Beaches. It also asks that the working group recommend appropriate actions to address the following issues:

1. Compliance with the Endangered Species Act;
2. Restoration of currently polluted resources, the removal of dangerous or illegal structures, and the potential to recover costs from parties responsible for habitat destruction;
3. Integration of a state park into the federal Ala Kahakai Trail System;
4. Opportunities for local craft and food vendors in the beach area;
5. Rights-of-way, including the elimination of motorized traffic on the existing sand road, and plans and designs for appropriate parking facilities;
6. Elimination or control of predators that harm endangered species; and
7. Identification and control of existing and potential sources of water pollution.

The Interim Report on SCR No. 89, SD 2 presented the conditions at Punalu'u and Kamehame Beaches as well as the findings of a working group of government representatives who met to address the Concurrent Resolution as it pertains to turtle protection. For the Interim Report, a public meeting was not held and the Community

was not included explicitly because a meeting at the time would have been "divisive and would have further polarized the Community." For this final report, a public meeting focusing on and inviting community concerns was held.

The DLNR has summarized the salient community opinions regarding issues at Punalu'u, and have provided its interpretation of the underlying problems. Some issues included in the SCR are in the process of being addressed by the responsible parties, while other resource issues are either not completely resolvable, or are not in reality, resource problems, but are nonetheless being driven by social and interpersonal conflicts at Punalu'u. In the end, a recommendation is provided to help the Community better preserve and protect Punalu'u by resolving their differences.

### **COMMUNITY OPINIONS**

On November 15, 2001, the DLNR's Land Division in conjunction with DLNR's Division of Conservation and Resources Enforcement held a public meeting just south of the subject beaches at the Pahala Community Center from 6:00 P.M. to 9:00 P.M. Approximately 45-55 people were in attendance, including residents, community members and state and local government agency representatives. The purpose of the meeting was to flesh out opinions, ideas and concerns regarding the seven concurrent resolution topics. The most important finding from the public meeting is that there is a deeper layer of human conflict that has given rise to the seven concurrent resolution issues. It appears that there are two families within the Community that have used the foregoing issues against one another over an undefined interpersonal dispute. An effective working group that partners government agencies with the Community to resolve natural resource issues, cannot be established if the Community is fractured in this way.

#### **A. Compliance with the Endangered Species Act & Elimination or Control of Predators that Harm Endangered Species**

DLNR's Division on Aquatic Resources explained its assessment of turtle well-being in the area and the Division's policies to protect the turtle populations. Turtle nesting is a fragile process that is potentially disrupted by artificial lighting, traffic,

tourists, cross netting, etc. The Division finds that only Green Sea Turtles come to the Punalu'u shores to bask in the sun and eighty percent of Hawksbill Turtles nest at Kamehame Beach. Kamehame Beach was included in the concurrent resolution solely because of the issue of whether the turtles nest at Punalu'u or elsewhere. A north/south boundary is to be built at Kamehame Beach greatly limiting lights and access to the area to guard and limit disturbances to the nesting turtles. Landowners in the area are required to fence their lands so that cattle are unable to feed off of the nests. The Division sets traps around nesting areas to catch mongoose during the nesting season. The encroachment of Hale Koa is cut back by volunteer groups. Concern for human physical interaction with the turtles at Punalu'u Beach is generally not a major problem. However, a private party has erected signs and barricades around basking turtles at their own expense. Additionally, the National Marine Fisheries Services provides brochures on the turtles for tourists.

A point of contention within the Community is whether the turtles attempt to nest beyond the beach and end up dangerously in the roadway or parking lot and unable to nest in areas with little or no sand. Turtles require 2 to 2 ½ feet deep dry loose sand for nesting.

Members of the Community provided a range of recommendations, including: closing the road and parking lot to protect the nesting turtles that may go beyond the beach; not worrying about the turtles because they nest at Kamehame rather than Punalu'u; having more state officials patrol the area; and creating a visitor center to better inform tourists of the turtles.

One thing that can be accomplished immediately is for landowners to implement protective measures at Kamehame Beach, with government regulators, the County of Hawaii Planning Department and DLNR facilitating the processing of any approvals necessary to implement these measures in the shortest possible timeframe. Since the County owns the road, which some people would like to have closed, the County and the Community must resolve this matter. Creation of a visitor center at Punalu'u could be accomplished through a private entity with a willing landowner and vendor. In terms of impacts to turtles at Punalu'u, there is no evidence of harm from the current level of tourism traffic.

B. Removal of Dangerous or Illegal Structures, and Potential to Recover Costs from Parties Responsible for Habitat Destruction

The issue of illegal structures at Punalu'u Beach is a major topic and has perhaps been the biggest issue between the two families. Years ago, one family was cited and required to take down an illegal barbeque pit on the Beach. This family alleges that the citation was instigated by complaints from the other family who now has a pending Conservation District use violation against some of their structures. The first family believes strongly that if they were required to take down their barbeque pit, then the rest of the Beach must be in compliance as well. The other family believes that their structures are legal because their family has resided at Punalu'u for several generations and has Kuleana rights in the land. The only community members to comment on the issue of illegal structures were those who either have or have had violations.

Regarding habitat destruction, some accuse cross-net fishermen of depleting the fish supply as well as endangering turtles. A fisherman who throws net to feed his family was threatened one day by a resident. He explained that he only takes what he needs and leaves enough for generations to come.

C. Integration of a State Park Into the Federal Ala Kahakai Trail System

Talk of creating a state park sparked discussion of property lines, ownership and jurisdiction, with no clear understanding of where property lines are and whether those lines really matter. Overwhelmingly, local residents and other community members object to creating a state park in the area. Many realize that a state park designation is not the panacea to all of Punalu'u's problems. The major argument against a state park is that the area includes a mix of private landowners. Some requested that a shoreline certification be performed to identify the State shoreline area. Many currently use the privately owned boat ramp without the express consent of the landowner.

A few community members expressed the view that a state park would turn the decision-making over to the State when it should stay with the Community who knows, lives, works and enjoys the area. Further, it does not matter if someone claims the land because Punalu'u has been and should always be for everyone to enjoy – those who

live a few feet away, those who come from the other side of the island, as well as those visiting the Islands.

#### D. Opportunities for Local Craft and Food Vendors in the Beach Area

Another issue of contention between the families is the illegal taking and selling of black sand from the Beach. Some maintain the sand is taken from other parts of the Island while others claim they have witnesses to the taking of sand at Punalu'u and selling to prove the violations. The State has since begun inquiring about this alleged witness. A vendor admits to selling the sand and says that she will stop selling the sand as soon as everyone else does. Some believe that the real loss of sand is not in the small packets tourists buy but a result of the occasional high surf that pushes large amounts of sand into the pond to the rear of the Beach or flattens the sand berms out into the road and parking lot behind the Beach. A resident recalled that 50 years ago, dump trucks would take the sand to make concrete. If sand is being taken from the public beach for commercial purposes, it is a violation of State Law. Unfortunately, prosecution is difficult because of the need to prove that the sand actually removed from the public beach is the same sand that is being sold to visitors. This may be difficult if not impossible to prove if sand similar to that on the public beach can be obtained from private lands. At the public meeting, representatives from the State urged and pleaded with the vendors to stop removing sand from Punalu'u Black Sands Beach.

In addition many explained that vending at Punalu'u is enjoyable, and more importantly it is how they make their living. Closing the Beach or even the road could be detrimental to their livelihood.

The State's ability to ameliorate the vending issue is limited to regulating land use through Conservation District permitting and enforcement. However, the County may be better able to address small business opportunities and the closing of the road to the Black Sand Beach.

E. Rights-of-Way, Including the Elimination of Motorized Traffic on the Existing Sand Road, and Plans and Designs for Appropriate Parking Facilities

There are many opinions regarding the County road and parking facilities, many of which propose some type of limitation on use of the road. One extreme proposes to completely close the road. Others want it left open, but restrict access by large vehicles such as tour buses that kick up sand, thus depleting the beach sand. Some want the road paved. Also, no speeding signs have been suggested.

Since the County owns the road, signage and access limits falls under its jurisdiction. The parking lot is privately owned and would require negotiating any changes to it with the private landowners.

F. Identification and Control of Existing and Potential Sources of Water Pollution and Restoration of Currently Polluted Resources

The Department of Health has conducted water quality tests and determined the water to be unpolluted. However, the pond in back of the Beach at Punalu'u is said to have fecal matter, construction and chemical pollution and is very cloudy. A related concern is that there aren't enough toilet facilities and trash receptacles in the area to accommodate the daily number of visitors to Punalu'u. Therefore, the Beach, pond and even private property have become the only alternatives.

## **MAJOR FINDINGS**

The issues presented and described above are not insolvable. However, resolution of any of these issues will require community consensus. The public meeting revealed that there is even disagreement about the order in which issues should be addressed although all the issues are important and can each be explained and dealt with. The Community has time and again come to public meetings with the same issues and same concerns. However, no progress has been made primarily because they involve interpersonal conflicts.

The rift in the Community stems from the two families. Though the animosity is visibly apparent, it is unclear when and how it began. One family is a vendor on the beach and has provided educational materials and signs to help protect the basking

turtles. The other family that resides in the area, objects to vendors selling black sand and is concerned that the vending creates threats to the turtles. This family wants the road closed, limiting access to the tourists and tour buses that patronize the beach vendors. Both families have been critical of the legality of the other's structures.

At the public meeting Community sentiment was split regarding the seven concurrent resolution issues. The split was less about the issues than support for one or the other families' positions. By the end of the public meeting, a few comments addressed the need to come together. A resident relatively new to the area encouraged the Community to solve its own problems, rather than have government step in and regulate change. Another related that the Division of Conservation and Resources Enforcement officers are constantly called down to the Punalu'u area to answer frivolous complaints against other community members. She also explained how she was tired of having to look away when she saw her neighbors and to have children live with such animosity.

There is agreement that Punalu'u is a special place loved by both vendor and resident, and that this should be reason enough to bring the Community together to try and reach common ground.

## **RECOMMENDATIONS**

It is DLNR's position that the seven concurrent resolution issues cannot be addressed until the community resolves the conflicting interpersonal problems. It is highly recommended that the two families participate in mediation. Mediation is a process of dispute resolution in which one or more impartial third parties intervenes in a conflict with the consent of the disputants and assists them in negotiating a consensual, informal agreement. Simply put, mediators provide a safe place for people involved in a conflict to talk freely and openly. There are several centers in the area that provide affordable mediation services. If the Legislature is truly interested in resolving the problems of Punalu'u it should consider providing the funds to sponsor the mediation.

Once mediation has taken place and the interpersonal issues are sorted out, then the Community can meet and seek consensus on the issues and the best ways of addressing them. Assuming agreement is reached, at that point, development of a



management plan for the area would be helpful. Government agencies are willing and able to provide assistance on the issues but the Community must speak as one what the problems are and how to address them.